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THE
TRIAL

OF

JOHN TAYLOR,

For Forgery,

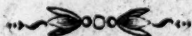
BEFORE

The Hon. Mr. BARON HOTHAM,

AT CHELMSFORD ASSIZES,

On Friday, the 7th of March, 1800.

TAKEN IN SHORT HAND.



CHELMSFORD:

PRINTED AND SOLD BY MEGGY AND CHALK.

1800.

THE
TRIAL
OF
JOHN TAYLOR

Entered at Stationers' Hall.

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JOHN TAYLOR,
For Forgery.

THE NAMES OF THE JURY.

<i>Thomas Porwell</i>	<i>John Hayden</i>
<i>Benj. Bennett Foster</i>	<i>John Carter</i>
<i>John Addyn</i>	<i>James Halestrah</i>
<i>Benjamin Hammond</i>	<i>Stephen Lovelad</i>
<i>John Wood</i>	<i>Joseph Aldridge</i>
<i>John Taylor</i>	<i>Robert Taylor</i>

Counsel for the Prosecution—*Mr. Serjeant Shepherd, & Mr. Balmanno.*

Attorney—*Mr. Mason, Colchester.*

Counsel for the Prisoner—*Mr. Garrow, Mr. Serjeant Best, and Mr. Knowlys.*

Attorney—*Mr. Chetham, London.*

THE Clerk of the Arraignment read the indictment, and the question being put to the Prisoner at the bar, whether he was, or was not guilty, the Prisoner pleaded not guilty, and put himself upon his country.

Mr. Balmanno stated the indictment to the Jury;—that John Taylor, on the 23rd August last, at St. Peter, in the town of Colchester, had in his custody a certain Bill of Exchange, signed with the name of John Taylor, bearing date at Harlow, the 23rd August, 1799, directed to one John Gingell, for the sum of £.820 10s. payable one month after the date of the said bill to the order of the said John Taylor; and that the said John Taylor intending to defraud one Charles Alexander Crickitt the elder, and Charles Alexander Crickitt the younger, did make, forge, and counterfeit on the same Bill of Exchange, an acceptance, purporting to be the acceptance of the said John Gingell against the statute.—The 2nd

count charged the Prisoner with uttering the said bill, knowing it to be forged.—The 3rd count charged him with forging the indorsement of Bartholomew Brown, with intent to defraud him.—The 4th count charged him with uttering the same, knowing it to be forged.

Mr. Serjeant Shepherd.—May it please your Lordship. Gentlemen of the Jury.—The Prisoner at the bar, as you have learnt from the indictment, which has just been stated, is charged with having committed the crime of forgery; which, I dare say, all of you know, is one of the highest crimes in the scale of offences in the Law of England; the conviction of which subjects the person convicted to the loss of his life. It is therefore extremely necessary that you should give the utmost attention to the case, and that you should be satisfied that the Prisoner is guilty before you convict him.

[The learned Serjeant having been interrupted several times, and there being a considerable noise in the Court, he could not proceed, as he could not be heard, the Judge gave public notice to every person in the Court, that unless a proper and becoming silence were maintained, he would order the Court to be cleared of every body, except the Counsel, Attornies, and the Witnesses.]

Mr. Serjeant Shepherd.—Gentlemen, I hope the admonition his Lordship has given will have a proper effect. We are certainly engaged in a most important scene; we are trying a young man, a fellow subject, on a charge of having committed a crime of the highest class known to the Law of England, and a conviction of his crime will subject him to the loss of his life. It is very important, as far as my duty goes, that I should have an opportunity of stating the facts which I am told the witnesses will be called to prove; and it is a most distressing thing, not only for the Counsel for the Prisoner, but for the Counsel for the Prosecution too, who have no object but a wish to be heard by the Jury;—it is a most distressing situation in which we are all placed, that persons who come here from idle curiosity will not give us the opportunity of discussing them properly; and almost deprive the Prisoner at the bar of a fair trial.—Gentlemen, the case I have to state to you, consists of a very few circumstances, which I shall state to you as shortly as I can. Whether I shall get to the end of my statement, without being interrupted again, it is impossible for me to predict.

Gentlemen, the Prisoner at the bar, I understand, was a person who carried on the business of a corn merchant at Harlow. There is a Bank at Colchester, which, at the time this offence was committed, was the property of Messrs. Crickitt; to which Bank the Prisoner applied, for the purpose of getting a Bill of Exchange discounted. This bill was drawn by the Prisoner, John Taylor, for £.820 10s. payable one month after date to his own order, for value received; and purporting to be drawn upon a person of the name of John Gingell, which Mr. Gingell is a corn dealer somewhere in Whitechapel, London. On the 26th August last, the Prisoner

Prisoner made an application to Messrs. Crickitt, Colchester, and produced to their clerk this Bill of Exchange, which, upon the face of it, appeared to be accepted by John Gingell, the person on whom it was drawn, John Gingell, Talbot, Whitechapel, London, and at the bottom of the bill was written the words, "John Gingell." At the time he first produced it to the clerk of Messrs. Crickitt to be discounted, the clerk told him that Mr. Crickitt, (meaning Mr. Crickitt's son) was not at home, and therefore he could not give him any answer on the subject. He took the bill away at that time, but when he took it away, only one indorsement, namely, his own, John Taylor, was upon the bill. He returned some hours afterwards, and again applied to the clerk to know whether Mr. Crickitt would discount the bill; and the clerk having told him that he doubted whether Mr. Crickitt would discount the bill as it first stood; when he returned the second time, he told the clerk he had procured the indorsement of Mr. Brown, a miller in that neighbourhood, by way of obviating the difficulty he had started, namely, whether Mr. Crickitt would discount this bill with only the acceptor's name, and his the drawer's. The clerk having this bill put into his hand, told him, Mr. Crickitt was not at home, but if he wished to have it discounted, he had better leave it for Mr. Crickitt's inspection, that he might enquire about it, and that he should receive an answer after Mr. Crickitt had satisfied himself, whether they would discount it or not. In consequence of that, the Prisoner left the bill with the clerk of Messrs. Crickitt. When Mr. Crickitt came home, the bill was put into his hands, the clerk telling him for what purpose it had been left, for the purpose of being discounted, and Mr. Crickitt doubting in his own mind, whether the indorsement of Mr. Bartholomew Brown was his indorsement. In consequence of this, Mr. Crickitt made enquiries, and I would not state this as introducing any evidence that is not legal evidence on the subject, nor what the supposed indorser of the bill said. Mr. Crickitt, upon enquiry of Mr. Brown, was told, that the name Bartholomew Brown upon the back of this bill, was not his indorsement; therefore that the indorsement had been forged, either by Taylor or some other person. That led Mr. Crickitt to suspect, that as the indorsement was forged, and it must have been forged with the knowledge of Taylor, who had once possessed that bill without any indorsement on the back except his own, and who brought it with an indorsement; it led him to suspect that probably the face of the bill might be as spurious as the back of it. He went up to London immediately, and made an enquiry of Mr. Gingell, whether the bill had been accepted by him. He received an answer that the acceptance was forged, for that he, Gingell, had never accepted that bill. Mr. Crickitt, in consequence of this answer, felt it his bounden duty to take steps to make further enquiry into the subject, and as it turned out that the bill was forged, to bring the Prisoner to trial for that offence.

The indictment charges that this bill was forged; and 2ndly, that it was uttered by the Prisoner, knowing it to be forged, with an

intent of defrauding Messrs. Crickitt, in whose hands he had placed it;—with intent to defraud the acceptor of the bill, I mean the supposed acceptor of the bill;—and with the intent to defraud Mr. Brown, the supposed indorser. It is no answer to this offence that no fraud had been actually perpetrated;—it is no answer for the Prisoner to make, that the effect of this crime was stopped by the bill being stopped in the hands of Messrs. Crickitt, for if a man utters such a bill, he is as much guilty within the eye, letter, and spirit of the law, as if he had obtained from Messrs. Crickitt's Bank the money he had proposed to obtain;—or as if he had obtained it from the pocket of the acceptor or indorser.

With intent to defraud, is the language, intent, and meaning of the law, and the intent is manifest by which the fraud is manifest: Now when a man forges a bill, and puts it into the hands of a person for the purpose of discounting it, the effect is, that either the man will lend him money on the bill, or the acceptor will some time or other be called to pay the bill, and the fraud is as complete as if he had got the money in his own pocket.

Having stated these circumstances, I shall now call the witnesses. I shall prove the bringing this bill to the Bank;—I shall prove what the Prisoner stated the first and second time, and that both these persons whose names are forged, both acceptor and indorser, they will tell you that neither the acceptance nor indorsement are theirs. They will tell you, as I am told, that they never authorised this man to put their names on the bill; because if I authorise my clerk, (which is some times done in the commercial world) to accept a bill for me, beyond all doubt it does not make that bill a forged one; though my name, in my own hand-writing, has never been upon it: I am bound by that acceptance, and if any man advance money on that bill, I am bound to pay it.—And these witnesses will tell you, that they never accepted nor indorsed, never did they authorise him to accept or indorse.—If I prove that, it is impossible for the Prisoner to say, he has not uttered this bill, knowing it to be forged.

It may happen that Bills of Exchange, of which a man is neither the drawer, acceptor, nor indorser, may fairly come into his hands, which he may afterwards utter, not knowing them to be forged. If any man in this town were to bring me a bill drawn by another, and I lent him money upon it, I might afterwards take that bill to my banker, and put my name to it, without knowing whether the person whose name was on the back, had signed it or not. But 'tis impossible but the Prisoner at the bar, he who drew the bill on Mr. Gingell; he who had it in his possession, and brought it to the Bank with his own indorsement; it is impossible but he must have known whether the acceptance of John Gingell was Gingell's acceptance or not.—It is impossible also, that having taken that bill back again, and having brought it again with the name of Bartholomew Brown on the back, it is impossible but he must have known when he so uttered it, that it was not Mr. Brown's indorsement.—I shall call the witnesses to prove this case; if the Prisoner can shew how this bill came into his hands to your satisfaction, so as to convince you he

he knew nothing of this forgery, then you will certainly not find him guilty.—But if he does not, it seems to me, he will be clearly convicted of this offence; and if he be convicted, it is absolutely necessary he should be brought to punishment for it.

EVIDENCE for the PROSECUTION.

ARCHIBALD HEDGE, sworn.—Examined by Mr. *Balmanno*.

Q. You were clerk, Mr. Hedge, in the banking house of Messrs. Crickitt, on the 26th August last? A. Yes, I was.

Q. Do you recollect the Prisoner at the bar, John Taylor? A. Yes.

Q. Did he apply to your banking house to discount that bill? A. Yes.

Q. What did he state? A. He asked me to discount it; I told him Mr. Crickitt was not in the way, and could not say any thing to it.

Q. Did he return again with the bill after that? A. Yes, about six o'clock in the evening.

Q. What was the time when he first applied? A. Between eleven and twelve.

Q. What application did he make then? A. The same question. He said he had got the bill endorsed by Mr. Brown.

Q. When he said he had got it endorsed by Mr. Brown, what did you say? A. I told him Mr. Crickitt was not in the way, and I could say nothing to it.

Q. Did he make any further application? A. He said he would leave the bill, and I might shew it to Mr. Crickitt. I gave it to Mr. Crickitt directly when he came in. Mr. Crickitt doubted the hand-writing.

Q. Do you recollect what names were on the back of the bill when first offered? A. His indorsement only, "John Taylor."

Q. When he came on the second time, was any addition made to it. A. Yes, "Bartholomew Brown" was put on the back of the bill.

Cross examined by Mr. *Garrow*.

Q. You stated, when the prisoner returned in the afternoon to Mr. Crickitt's, he proposed to leave the bill with you, and left it without any difficulty? A. Yes.

Q. I don't know whether you knew any thing of this bill before the prisoner first brought it to you? A. I did not.

Q. You knew Mr. Brown very well? A. Yes.

Q. You had not seen this bill till he brought it to you? A. No.

Q. He made no difficulty in leaving it with you? A. No.

CHARLES ALEX. CRICKITT, Jun. sworn.—Examined by Mr. *Serjeant Shepherd*.

Q. Mr. Crickitt, did you live at Colchester in the month of August last? A. Yes.

Q. Was Mr. Hedge a clerk there? A. He was.

Q. Who were the partners in the banking house at that time? A. My father and myself only.

Q. Did you receive that bill in the month of August last from the last witness? A. Yes.

Q. In consequence of having that bill left, did you make any enquiries of Mr. Brown on the subject of the bill? A. I did.

Q. Did you go up to town and make any enquiry of Mr. Gingell? A. I did.

Q. When did you go to town? A. After I had been to Mr. Brown.

Q. On the same day? A. The night, or the next day I cannot say which.

Q. Was

Q. Was Mr. Gingell a stranger? **A.** I never heard of him before.

BARTHOLOMEW BROWN, sworn.—Examined by *Mr. Balmann*,

Q. Do you live in Colchester? **A.** Yes.

Q. On the 26th of August last, did Mr. Crickitt, and his clerk, Mr. Hedge, come to enquire of you any thing relative to the indorsement of this bill? **A.** Yes.

Q. Did they shew you this bill? **A.** Yes.

Q. Is the indorsement on this bill your hand-writing?

Mr. GARROW. Don't answer that question.

My Lord, I did not think that question would have been put! I will state my objection to it. I need not state to your lordship, that the objection does not impute any discredit to the witness; nor do I mean to represent that Mr. Brown would falsify any fact that it is material for him to state. But, my Lord, I use not any language of my own, but the language of one of the first magistrates this age, or this country ever saw; I mean, my Lord Mansfield: who, speaking on a subject of this sort, infinitely inferior to the subject we are discussing, expressed himself in language like this.—Courts and juries do not set for the purpose of examining, but to take care the human mind shall not be exposed to any temptation at all; and not to weigh in nice and golden scales what may be made by the minds of men in any thing that comes in judgement before them. The question proposed is, to ask the witness, whether the indorsement is the indorsement of the witness? In other words, to ask the witness, whether he is liable to pay that bill?—In other words to ask him, whether he will furnish evidence to demolish his liability, or give evidence, which, on some other occasion, would prove his liability; because, beyond all question, if, as I have a right to assume in this stage of the cause; if the hand-writing be the hand-writing of the witness, he must be, and is at all times, liable to pay that bill. And the law has said in its wisdom, that the law will not suffer him to get rid of that liability. I need not tell my learned friend, the King's Serjeant, he is the last witness one would chuse for this purpose; one would rather take any body but the witness under examination. But it is enough for me to state, that Mr. Brown's name appearing on the back of the bill, he, Mr. Brown, cannot come here for the purpose of destroying his liability. No man can release him but the prisoner; and till he does release him, Mr. Brown must be taken to be the person liable to pay that bill. On this objection I submit to your Lordship, he cannot be examined.

Mr. Serjeant Best.—My Lord, I conceive it is not necessary for me to say much after what has fallen from Mr. Garrow.—I recollect a case in Lord Raymond's Reports, ruled by Lord Holt, where a witness, like this was not received in evidence.

Mr. Knowllys.—My Lord, I am on the same side with the King's Counsel, and the learned serjeant; I remember the case in Lord Raymond,

Raymond, and another case that was decided before my Lord Mansfield. And I can speak from my own experience for 14 years, in the first criminal court of judicature in England—the Old Bailey—where it is always taken as a first principle, that the man who is called to negative his own hand-writing, to pay the amount of an instrument that hand-writing is put to, he never can be called as a witness. I'll say not a word more.

Mr. *Serjeant Shepherd* in reply.—My Lord, I'll state to your Lordship, that there is not a colour for this objection. I admit that in cases of felony, for what reason I cannot tell, a different rule prevails upon the subject of admitting witnesses, from many other cases. In cases of stolen goods, and all other cases of felony, beyond a doubt, witnesses, interested in the event of the trial, are admitted. For certainly it has been ruled, that, in cases of forgery, a person whose name is on the back of the instrument, and who, in consequence of his name being there, is at all a circumstance with which the instrument then stands, or may be made liable to any person who holds an interest in it, is deemed to be an incompetent witness, and therefore I admit, if Mr. Crickitt had advanced one shilling on this bill, that, then, beyond all doubt, Mr. Brown could not have been a witness, unless Mr. Crickitt had released him. But my learned friend goes on this idea, that Mr. Brown having endorsed this bill, he requires a release from Mr. Taylor, and that Mr. Brown, from his indorsement, is liable to Mr. Taylor. Now, the very contrary appears; if Mr. Brown had been the first indorser of the bill, and Taylor the holder of the bill under that indorsement, there would have been something in the objection, because, my learned friend says, Brown indorsed this bill to Taylor, and that therefore he has a claim against Mr. Brown on that indorsement. But your Lordship, by looking at this bill, will find, that Taylor is the drawer of the bill, and the first indorser of the bill; and then Taylor brings it to Mr. Crickitt, with the indorsement of Mr. Brown, subsequent to his own indorsement; so that upon this bill Taylor could never have any claim against Brown on this bill; for upon the face of it Mr. Taylor never could have brought an action against Mr. Brown, or claimed the value in consequence of this indorsement. If Brown had been the first indorser, and afterwards it had came into the hands of Taylor, who uttered it to Mr. Crickitt, he, Taylor, being the indorsee of Brown, then that species of interest might have arisen, which Mr. Garrow states. But that cannot be the case, because Mr. Taylor is the drawer. Mr. Taylor the first indorser, and then brings it to Mr. Crickitt with the indorsement of his own. Now, beyond all doubt, Taylor has no claim against Mr. Brown, a subsequent indorser. If I should call Mr. Gingell by and by, then it may become necessary to discuss the question how far he might be a witness, for Taylor having brought the bill, as against Gingell, Taylor would have a claim. But the drawer and first indorser never can have a claim by virtue of that indorsement on Mr. Brown. Mr. Brown is not
liable

liable to Mr. Crickitt, nor liable to Mr. Taylor, nor to any human being at this moment; standing as it does he is not liable at all.

With respect to Mr. Brown's being a witness of necessity, it seems to me he is of necessity. I have other witnesses who can prove they don't believe it to be his hand-writing; but it seems to me, he is a perfectly competent witness, and therefore I am bound to call him. I submit to your Lordship if I am not.

Mr. Garrow.—My Lord, if I had a strong objection at first, it has been rendered much stronger by the manner in which he has answered it; for he has avoided the very question between us. For my learned friend knows there has been a thousand rulings one way. *Ex concessis*, this man is no witness, because my learned friend stated to your Lordship, if Mr. Crickitt had advanced one shilling on this bill, Mr. Brown could not be a witness, because he would be entitled to recover back the one shilling he had advanced against Mr. Brown. But he has not advanced one shilling to Mr. Brown. How stands the case then now? I am entitled to assume, that the holder of the bill has advanced the full amount of the bill upon the credit of Mr. Brown's indorsement. If Mr. Brown's indorsement is to charge Mr. Brown, it follows from the concession that if I am bound to assume that the holder of it, be he who he may, is entitled. You have an interest to discharge yourself up to the full extent of the bill itself. How does he seem to distinguish? 'Tis by the position of the two names upon the bill. But there is to be some magic in the two names. There can be no liability in Mr. Brown, inasmuch as Mr. Taylor is the preceding indorser.—Taylor being *ex necessitate* the first indorser, I agree that *qua* first indorser he has no hold upon any subsequent indorser. But if the assumed fraud had been practised on Mr. Crickitt, then I do put the position that all mankind, be he Nokes or Stiles, or the Pump at Aldgate, he can by no means be a witness but by a release. I am supposing that this bill (which I am entitled to assume is genuine) is regularly drawn and accepted. Mr. Brown puts his name upon it; perhaps it is an additional inducement to Mr. Crickitt to discount it. It gets into the hands of Mr. Crickitt; it passes through various hands, and it comes back again into the hands of the Prisoner at the bar. Will my learned friend, the King's Serjeant, say, that he has not a good title to sue all the parties that stand before him on that bill? Then if I can shew that the holder of the bill is entitled to recover against Mr. Brown, then, *ex concessis*, Mr. Brown cannot be a witness, by telling you and the Jury that it is not his indorsement. My learned friend reminds me of what my Lord Mansfield says, "that every indorsement makes it a new bill." The name of Mr. Gingell was necessary to give effect to the first formation of the bill. But the next indorser makes it a new bill, and so on *ad infinitum*. And in this routine I am supposing it to come back again to the Prisoner at the bar.—It shews, my Lord, there may be a position where the evidence of the witness, Mr. Brown, cannot be accepted.

Mr.

Mr. Baron Hotham.—I have not the least doubt in the world. I do conceive there is such a liability in Mr. Brown, that the general rule which has always prevailed cannot be departed from in this instance. Such a person is never admitted to prove the forgery.

Mr. CRICKITT again examined by Mr. Balmanno.

Q. Are you acquainted with the hand-writing of Mr. Brown? A. I was perfectly well at that time, and I am sure I am now.

Q. Have you ever seen him write?

Mr. Garrow. Mr. Balmanno I once more object.

My Lord, the objection I now make will require a recurrence to the record. I don't know whether I am obliged to recur to first principles on this business; for I did not consider it in the former part of my life, when I had more of this business to do, whether the objection is to be supported by authorities. Having no law library nor any law book at Chelmsford, I must state from recollection. I state the case of Jones, otherwise Thorowgood, that was argued by my friend Mr. Sylvester, which will bear me out. The question now put to Mr. Crickitt is, whether he is acquainted with the hand-writing of Mr. Brown? My Lord, if this Bill of Exchange with respect to Mr. Brown were as *specific* as it is with respect to Mr. Gingell, I should have understood what the gentlemen meant by negating the hand-writing of Mr. Brown. If we were to get to the names of the Thompsons, the Johnsons, the Smiths, and the Browns; the hand-writing of some one Mr. Thompson;—some one Mr. Johnson;—some one Mr. Smith;—some one Mr. Brown,—Now we have Browns of all shades in different parts of the kingdom. But the indictment itself has given evidence upon this objection; because the indictment does not affect to distinguish the name of Mr. Brown. They have not gone through the common ceremony, and there never could have been a conviction upon it. They have not stated it to be the hand-writing of any Bartholomew Brown;—of any person *in esse*. I took it down when the indictment was read, it was so singular. It is an indorsement, not purporting to be the indorsement of Bartholomew Brown, but the indorsement of one Bartholomew Brown. Suppose I tell your Lordship 'tis not the hand-writing of Mr. Brown living at Colchester, it is the hand-writing of Mr. Brown living in Nova Scotia, living in the Hebrides. And perhaps I shall be told by and by, in offering the bill for discount he designated the Bartholomew Brown. And here I would refer my friend to the case of Jones, otherwise Thorowgood, again. It is a memorable case in our law. He described Mr. Brown as living in the neighbourhood. Why I dare say there are 20 Browns living in this town of Chelmsford. But supposing at the time of presenting this bill to be discounted, he had said, not only the Mr. Brown who lives in your neighbourhood, but I mean to speak of Mr. Brown, a man well known to you, who lives at the sign of the Three Pigeons, the Three Tuns, or the Three Blue Balls, or any where else. It is not answered by the case of Jones, other-

wise Thorowgood. This case came on to be tried before Mr. Justice Blackstone, then before my Lord Mansfield, or *vice versa*. I shall recollect in a moment. First before my Lord Mansfield, who was of opinion it was not a forgery, but a fraud. It came on first in the shape of an indictment for fraud only. Mr. Justice Blackstone was of opinion it was not a fraud, but a forgery. He directed an acquittal upon the fraud, and for the prisoner to be tried for the capital forgery. The Prisoner had artfully inserted in the bill, the words "for my Governor and Company of my Bank of England." He stated it to be a promissory note of the Bank of England. But his Lordship ordered an acquittal, altho' Jones uttered it as such, and my learned friend, Mr. Sylvester, was of Counsel in that case. But my Lord Mansfield said this to him, when he was arguing on the effect of the particle, that any thing a man says at the time of uttering it, signifies nothing; it must be something upon the *instrument itself*, looking at the four corners of the instrument. You cannot supply this by any thing *before* the instrument, nor make out any thing it purports not to be. What does it purport to be? For his Governor and Company of his Bank in England. But the indictment assumed that it purported to be for the Governor and Company of the Bank of England.

The indorsement on that bill is not a specific indorsement of Bartholomew Brown, at the Three Cups or the Three Pigeons. I answer that fact, thus, that before you set out to convict this man, you must upon the four corners of the instrument, upon the face or the back of it, discover a designation applied to this particular person.

I am not unaware of cases of forgery of non-existing personages. Suppose instead of a Bartholomew Brown living in the neighbourhood of Mr. Crickitt's Bank, it had been stated to be Theophilus Abicorn, a name that never existed perhaps from the foundation of the world. How will you set about to shew, (for it is equally a capital forgery) how will you set about to shew that forgery? I can't call Theophilus Abicorn, because he never wrote, he never existed. How then am I to set about to prove it? Why, by enquiring in the neighbourhood where he is stated to live;—to state from some tax-gatherer, who, upon diligent enquiry, has not been able to find any such person. If he fail to do this, a fictitious name is equally a forgery, inasmuch as it is equally an intent to defraud. But in this case, so long as there may be any Bartholomew Brown in the world, whose hand-writing would make it a genuine bill;—until there is within the *four corners of the bill*, (for I will not be removed from that) something that designated this Bartholomew Brown, I submit to your Lordship whether he be admissible or not.

Mr. Serjeant Best.—My Lord, it does appear to me, that this is an objection that arises on the face of the indictment itself. And your Lordship well knows the practice of the Courts is such, that a person who has the misfortune to be charged with a felony is not allowed a copy of the indictment; he cannot therefore know the specific charge

charge till he comes into a Court of Justice. It therefore appears to me, that if it is sufficient to prove it is not the hand-writing of Mr. Bartholomew Brown, it is necessary it should be pointed out on the indictment who that Mr. Brown is. The indictment has passed sentence upon itself, for when it is describing the name of the acceptor, it describes where that acceptor lives. When it comes to speak of Mr. Bartholomew Brown, whose hand-writing is about to be offered to your Lordship, 'tis merely the hand-writing of Mr. Bartholomew Brown, without designating him, or saying where he is to be found. My Lord, I submit it is impossible for any man to defend himself; because it would be impossible to bring forward the man. It cannot be known to the Prisoner at the bar till he comes forward to answer for his life, when it is utterly impossible for him to bring evidence to exculpate himself.

Mr. Knowllys.—My Lord, on the part of the prosecution they seem to set a specification of Mr. Bartholomew Brown by some account the Prisoner has given. Mr. Bartholomew Brown living in the neighbourhood of Colchester. I have a right to suppose, (I don't mean to impute any thing to Mr. Crickitt) but I have a right to suppose that this prosecution is carried on for no purpose of public justice whatever, but to destroy an innocent individual. Then what am I to do? But this person averred to me that the indorsement is the indorsement of John Smith living in my neighbourhood, not confining it to within 20 houses, or within 4 or 5 miles, which in the country may be called the neighbourhood. My Lord, a John Smith may be known to him to have made that understood, and he understanding I have made the indorsement of John Smith, knowing that it is the real indorsement of John Smith, who is the person really taking a part in the transaction. If this is to be allowed, no man living can be safe. He represented to me that Mr. Bartholomew Brown was a person living in my neighbourhood, but I have diligently searched from house to house, and can find but one Bartholomew Brown. I grant then there is a case for the Prisoner to answer; but without that enquiry, without setting forth in the indictment that there is no other Bartholomew Brown living in the neighbourhood, or that no other Bartholomew Brown can be found by reasonable and proper enquiry, then I put this position to your Lordship, that without some specification agreeing with that specification the Prisoner set up, "living in the neighbourhood," they cannot put this Bartholomew Brown before your Lordship as the man who ought to have made that indorsement, and who can prove not to have it in order to prove this a forgery. And therefore it appears to me, that they cannot put this evidence before you that this is not the hand-writing of that Bartholomew Brown, because it may not be his hand-writing, but of a person existing in the neighbourhood of Mr. Crickitt, binding on a Mr. Brown, who is forthcoming to all the world, to pay that instrument which he is bound to pay.

Mr. Serjeant Shepherd again in reply.—My Lord, with respect to the effect of the evidence we have nothing to do. I have a right to

ask Mr. Bartholomew Brown, whether it is his hand-writing or no. What is the objection made? It is this; because 'tis an indorsement which is merely the name of Bartholomew Brown, and that the particular and specific Bartholomew Brown is not described in the four corners of the instrument, therefore I have no right to examine any witness as to its being or not being any hand-writing of any Bartholomew Brown in this country. This doctrine is a complete answer for any man forging an instrument; for if I had all the Bartholomew Browns in England, I could not call them, nor one of them, because the forger, not having designated any specific Bartholomew Brown on the back of the instrument; I have no right to shew which it is. The necessary consequence is, that no man can be indicted for forgery, who puts an indorsement upon an instrument, without putting the place and a complete designation also, though released to any extent, though all mankind might be called to prove it is neither his hand-writing nor mine. I admit this, that beyond all doubt, when the trial comes to be at an end, the question will be for the jury to determine whether the Bartholomew Brown referred to, is the Bartholomew Brown the Prisoner pretended. But according to the doctrine of my learned friend, we cannot come to that question because I have no right to ask Mr. Crickitt. It would be one of the most dangerous principles that could be adopted in a court of justice. How stands it in evidence then? This man brought this bill of exchange with the name of Bartholomew Brown on the back. He says, he brought it with the indorsement of Mr. Bartholomew Brown, in that neighbourhood. If he had said, 'tis Mr. Bartholomew Brown, living at a certain specific place, describing his mill, &c. according to the doctrine of my friend, I could not call the witness. But I will venture to say, on a bill of exchange for one indorser that is designated, there are a million without any designation. I will venture to say, if your Lordship were to collect all the bills of exchange, at the Royal Exchange, or in the whole city of London, to-morrow; I venture to say, in the proportion of one to a million, you will find no name designated, except the designation of the acceptor, in order to know where to carry that bill for acceptance. And in no one case could you prove that was forged, unless there were to be a designation on the face of that bill. It would be adopting a principle which would be a complete licence for forgery; therefore I submit to your Lordship, I have a right to put the question.

Judge.—I have no doubt you have a right to put the question; but you certainly must prove this is *the very Bartholomew Brown*.

Mr. Garrow.—My learned friend having had an opportunity of replying to my objection, if your Lordship will give me leave, I will take the liberty of saying one word in answer; because I feel no difficulty in avowing, if I thought the law of England did not bear me out in my assertions, I should not make them; but where the law of England does bear me out, I am not afraid of giving offence to

to any judge that ever sat in Westminster-Hall. I had a right, if I could, indirectly to convey observations to the fact; and whatever other people may say, I shall certainly take the liberty of doing it; for what the law of England will not permit me to do *directly*, I will do *indirectly*, where I can.

Mr. CRICKITT again examined by Mr. *Serjeant Shepherd*.

Q. Do you know any other Bartholomew Brown in your neighbourhood?
A. No, I never heard of any one.

Q. Had that Mr. Brown any transactions with your house before this bill came into your hand? A. He kept a regular account with us; we were in the habit of paying his checks daily.

Q. Be so good as to look at that hand-writing of Mr. Bartholomew Brown. A. This is not the hand-writing of our customer, Bartholomew Brown. He was in the habit of bringing bills to us, and I have seen him write.

Q. Had you ever any conversation with the Prisoner? A. Yes.

Q. When was that, when he first came to the banking house? A. yes, after the bill was delivered to Mr. Hedge, and he had delivered it to me.

Q. Who had the bill at that time? A. I had it.

Q. Relate to my Lord and the jury, what conversation passed between you and the Prisoner about the bill or the indorsement. A. When he came, I asked him what he wanted. I was in regimentals, and he did not know my name was Crickitt. He said he had left a bill to be discounted. I took the bill and looked at it. I remarked I did not know him nor the acceptor. His answer was, it was our customer, Mr. Brown, who had endorsed it.

Mr. *Garrow* here interrupted him, and said, he did not say *our* customer; the words were *your* customer, Mr. Bartholomew Brown, of the second mill.

Q. Did you say any thing upon that? A. I asked him to walk in the parlour.

Q. Did he? A. Yes.

Q. What passed then? A. I put the bill on the table. Mr. Brown was there; and, in the presence of the prisoner, I asked him, if that was his hand writing. He said, no, it was not.

Q. Did the Prisoner make any observations? A. He did; he said he knew he had done wrong, and hoped I would not hang him.

Q. What did you do in consequence of that? A. I told him I had a duty owing to society, and I must do my duty.

Mr. *A. Hedge* re-examined.

Q. How long, Mr. Hedge, had you been a clerk in Mr. Crickitt's house? A. Sometime.

Q. Did you know Mr. Brown's hand-writing? A. Yes.

Q. Do you believe that to be Mr. Bartholomew Brown's hand-writing?
A. I am sure it is not.

Judge.—What Mr. Bartholomew Brown are you speaking of? A. Mr. Bartholomew Brown, of the second mill.

Q. Have you any more customers than one of the name of Bartholomew Brown? A. No.

Q. Have

Q. Have you any other Bartholomew Brown in your neighbourhood?
A. Not that I ever heard of.

The end of the Evidence for the Prosecution.

Mr. Serjeant Shepherd.—For the counts, respecting Mr. Gingell's acceptance, I do not go.

Mr. Garrow.—My Lord, I have ten millions of pardons to beg of your Lordship; if I could have foreseen this, I should not have troubled you with any remarks.

Judge.—Has the prisoner any witnesses to call to his character?

Mr. Garrow.—Yes, my Lord, but I shall not advise him to call any, and I never gave such advice before.

The Judge recommended some to be called.

JOHN JOHNSON, of Stratford, sworn.—Examined by **Mr. Garrow**.

Q. How long have you known the prisoner at the bar? **A.** A considerable time.

Q. He has been in business sometime; have you had an opportunity of knowing any thing with regard to his honesty? **A.** Yes.

Mr. SAMUEL BRIGHT called, but did not appear.

Mr. NATHANIEL PALMER, sworn.—Examined by **Mr. Serjeant Best**.

Q. You are a cornfactor, I believe? **A.** Yes, I am in partnership in the house of Stock, Harris, and Company.

Q. How long have you known the Prisoner at the bar? **A.** Sometime; we have had considerable transactions with him, in selling corn for him.

Q. You have dealt with him to the amount of many hundred pounds?
A. Yes; one circumstance I could mention, when he has drawn bills on us, he has shewn an ignorance of bill transactions, which we have pointed out to him, viz. he drew a bill payable to order, or bearer; we acquainted him of this informality.

Mr. ISAAC LIVERMORE, sworn.—Examined by **Mr. Knowly**.

Q. You are a maltster at Stortford? **A.** Yes.

Q. You have had considerable transactions with the Prisoner at the bar?
A. Yes; I have known him nearly two years.

Q. What character has he borne? **A.** A very honest one.

Q. Your transactions have been to a considerable amount? **A.** Yes, and I have always found him very honest and very honourable.

JOHN GOODWIN, **Mr. BARNARD**, and **Mr. POLLEY**, called, but were not in court.

Mr. Garrow.—It is not necessary to call any more, my Lord.

Judge.—Gentlemen of the Jury. The Prisoner at the bar is indicted for having forged an acceptance of one John Gingell upon a Bill of Exchange, drawn by himself, on the Colchester Bank, and forging an indorsement on that Bill of Exchange in the name of Bartholomew

Bartholomew Brown. The evidence is exceedingly short upon this case, and it is for me to state it to you precisely as it has been given.

Archibald Hedge, a clerk of Messrs. Crickitt's house says, that on the 25th August he recollected the Prisoner coming to their house, and applying to him to discount the bill. Mr. Crickitt was not in the way, and he said he could not say any thing to it. This was about eleven or twelve o'clock.—About six o'clock in the afternoon he came again, and said he had got the indorsement of Mr. Bartholomew Brown, and he said he would leave the bill.—When he first brought it, it had only the indorsement of John Taylor, the Prisoner. The second time it had the indorsement of Mr. Bartholomew Brown. He gave the bill to Mr. Crickitt when he came home.

Mr. Crickitt says, he lived at Colchester in August last; his father and he were the only partners in the house. He says he received the bill of Mr. Hedge, and he enquired of Brown whether it were his indorsement; and upon finding it was not, he went to town, and enquired of Mr. Gingell whether it were his acceptance. He says he never heard of Mr. Gingell before.

Mr. Brown says, he lived in Colchester. On the 22d and 26th of August, Mr. Crickitt and Mr. Hedge came to him and shewed him the bill. At this time little or no satisfaction who this Mr. Brown was; barely a Mr. Brown living at Colchester, and no other account given of him. The witness did but barely describe him in his first examination; but after a debate, Mr. Crickitt was called upon again, and on his second examination he said, he knew it to be not the hand-writing of their customer Bartholomew Brown, and that he never heard of any other Mr. Bartholomew Brown.—That Mr. Brown was in the habit of drawing checks on their house, and then that he had a conversation with the Prisoner after the bill had been delivered to him, and he said he had left the bill to be discounted.—Mr. Crickitt says, he then asked him what Mr. Brown it was, that he said in answer, "your customer, Mr. Bartholomew Brown, of the "second Mill." He asked him to walk into the parlour, and Mr. Brown happened to be there. He asked Mr. Brown, in the presence of the Prisoner, whether that was his hand-writing. He answered no. Then the Prisoner said, he knew he had done wrong, but he hoped that he, Mr. Crickitt, would not hang him.—Mr. Hedge was then called upon again, and he says, it was not the hand-writing of Mr. Bartholomew Brown, of the second Mill, and that they had no other customer of that name, than that Mr. Bartholomew Brown, and he knew there was no other person of that name in that neighbourhood.—This is all the evidence on the part of the prosecution.

The Prisoner has called three witnesses, (and he called several others but they could not get in) who gave him a good character.—They say he behaved himself as a very honourable and good man.—Mr. Gingell's acceptance they don't go upon, but they rest entirely upon the indorsement by Mr. Brown, and Mr. Brown not being described in the indictment, 'tis necessary you should be satisfied that
there

there is no other Mr. Bartholomew Brown than the very Mr. Bartholomew Brown in question. It may not be the hand-writing of this Mr. Brown, nor of an hundred other Mr. Brown's, and yet it may be the hand-writing at last of some Mr. Brown, and therefore it is, that the designation of the person must be made out to your satisfaction, that you may be certain it is that Mr. Brown whose hand he has forged, and no other. Therefore with respect to this, you are to consider from the evidence you have heard, whether you believe it to be the hand-writing of this Mr. Bartholomew Brown who lives at the second Mill, or not.—I wish the evidence had been given on the original examination; I should have liked it much better. I don't mean to insinuate that Mr. Crickitt or Mr. Hedge have bolstered up the cause, but it would have been more satisfactory to you and to me, if they had at once told us, that it was that Mr. Bartholomew Brown who lives at the second Mill — However they must have seen how necessary it was he should be so described.—If you think it may still be the hand-writing of some Mr. Brown, tho' not the hand-writing of the Mr. Brown they are speaking of, you will certainly then not convict the Prisoner. If you think on the other hand, that it is that Mr. Brown's hand only, who lives at the second Mill, the question then is, that the indorsement must have been made by him who uttered it, or at least with his knowledge; because in a few hours, between 11 and 12, when he first brought it, his name was not on the bill; and in the afternoon when he brought it, it was. Therefore you see whatever was done to the bill, it was either done by him or somebody else, not Mr. Crickitt nor Mr. Hedge, they had nothing to do with it.—If you believe there has not been that sort of enquiry made after Mr. Brown in the neighbourhood, and are satisfied that it was that Mr. Brown, and he only, then the evidence given by Mr. Crickitt, that he did describe him as their customer living at the second Mill, is very strong. To be sure the other part of the evidence is very strong likewise, (I wish I had it not to sum up) saying he knew it to be wrong, and hoped they would not hang him.

I have known frequently at the Old Bailey, where the person has not been described in the indictment, that Juries have expected very strong evidence that it must be the man whose name 'tis supposed to be forged, and that they always expect it should be clearly made out to them from diligent enquiry having been made, enquiring whether such a person is to be found, and so on. I don't find any such enquiry has been made in this case, no pains being taken to satisfy you on that subject, but the witnesses barely saying, they do not know of any other Bartholomew Brown, and that they both agree in.—This is the whole case; and if you seriously have not any doubts on the subject; if you are perfectly satisfied that it is that Mr. Bartholomew Brown, and no other Bartholomew Brown;—that it is impossible for any other Bartholomew Brown to start up, and say this is my hand-writing; then beyond all question you will find the Prisoner guilty. If you are not satisfied that proper enquiry has been made;—if you have any sort of doubt on your mind, you

you will unquestionably take into your consideration the good character that has been given him, and the improbability of his having committed that crime, and give him that advantage he ought to receive from us, by an acquittal.

The Jury, after enquiring what time the Banking-house shut up, and requesting to look at the bill, brought in their verdict,
GUILTY.

Mr. *Garrow* then rose and made the following motion in arrest of judgement.

May it please your Lordship—The Gentlemen of the Jury having painfully manifested their duty on this occasion, (and painful I have no doubt it was) it becomes mine to make a motion in arrest of judgement. I shall do it briefly, and shall state the case *ad verendum*, to the King's Serjeant. For on our being able to support this motion, depends now the life or death of this unfortunate man. And it is a great comfort to me to know that it is impossible to answer the objection I am about to state; it is an objection incapable of an answer.

I will state the indictment correctly. The first count charges the prisoner with forging an acceptance on a bill of exchange in the name of John Gingell, and there being no evidence he is acquitted as to that. The second count charges him with uttering the same bill of exchange, knowing it to be forged; of this he is likewise acquitted, and for the same reason. There are two other counts in this indictment. The first imports to be, and I now state it in the language in which a clerk-like indictment would have stated the offence, that he, the prisoner at the bar, having in his custody a certain bill of exchange, drawn by himself on one John Gingell, and payable to his own order, and indorsed by him, did falsely make, forge, and counterfeit on the back of the said bill of exchange, so indorsed as aforesaid, a certain paper writing, purporting to be another indorsement on the said bill of exchange, purporting to be the name of Bartholomew Brown; the tenor of which said last mentioned false, forged, and counterfeit indorsement is as follows, that is to say, Barthw. Brown, &c. I state it not from any book, but having in former times had occasion to state them to juries and looking at them for the purpose of stating them. I say they are words, which if I could state any words in my sleep, I should have done it in these words, and I put it to my learned friends if these words have not uniformly been used from the moment the offence was created to the present moment, and in the manner I have stated. I will state it as it is, for my learned friend the serjeant (and he is the person to whom I am now addressing myself) does not state them as the indorsement of any person *in esse* or not *in esse*. The tenor of the indorsement, nor the purport of the indorsement, nor any one thing that technically described the indictment to be drawn by a person of skill. But as it should seem, from some fatuity or other, some part taken from

one book, and some part from another. I should have stated it in this way. I will state it to your Lordship lest I should be supposed as imposing on the profession. I will state the language of this indictment. It states in the first count, that he forged an indorsement of one Bartholomew Brown; next, that he uttered it. Why, my Lord, if I were not in a grave state, in a court where we are sitting in judgement on life or death, I should take the liberty of speaking *flippantly* on the subject, and say, What then? What is the effect of this? Take the two first counts out of the indictment, take them out and it stands then patent upon face of this record, that this man has done what? that he has forged an indorsement in the name of one Bartholomew Brown. But certainly, my Lord, tenor is requisite. The Gentlemen of the Jury desired to look at the instrument; looking at it, it gives them no information, because it does not import, nor have they foredrawn, that the indorsement Bartholomew Brown, was the Bartholomew Brown in question. For the answer given to the Jury might have been James Brown, John Brown, Margaret Brown, or any thing else; and yet the drawer of the indictment has imputed the indorsement to Mr. Bartholomew Brown. But, my Lord, as long as certainty has any place in indictments; as long as comparison with the instrument is adopted, such an indictment as the present cannot stand. And I know there never was a judge went out of the way in order to cover the slovenliness of those who chuse to draw indictments.

My Lord, there is another point, viz. that at all future times, when your Lordship shall be removed from that seat, which you have so long and honourably filled; when we shall all be in our graves, and future generations shall be looking at the record, and from the certainty required in indictments, that all future generations may know what it is this man is charged with. It will not appear on this record that he forged the hand writing of Mr. Bartholomew Brown, at the Second Mill, but that he forged an indorsement in the name of one Bartholomew Brown.

But, my Lord, on looking at the back of this bill it is decisive, for it is not Bartholomew, but *Barthw.* 'Tis decisive

Judge,—What do you say to that? You should have set out, meaning thereby, Bartholomew Brown, *inuendo*.

Mr. Serjeant Shepherd.—My Lord, my friend Mr. Garrow, addresses his arguments to me *ad verecundiam*. Looking at this indictment, he says it is bad; but, if I don't very much misrecollect myself, this indictment is drawn upon the principle recommended by a very learned judge, in consequence of an objection that was taken to an indictment that stated the tenor, and did not state it correctly. I mean Mr. Justice Buller. It was an indictment professing to state the tenor, and stated it in a blundering manner. I don't recollect the name of the case; but, if I do not much misrecollect myself, Mr. Justice Buller stated, "It is not necessary to state the tenor," for

“for it is enough to charge the bill was forged in the name of such an one.” What does this indictment state? That he falsely forged, made, and counterfeited. These are terms of technical meaning; and falsely forged certainly means he has uttered something; and then the indictment states what that something is. Not professing to state it in the words, but that he falsely forged, made, and counterfeited an indorsement in the name of one Bartholomew Brown. If it had stated the tenor not as it is, but with a name at length, they pretend to set it up as a variance. I submit to your Lordship, that when it states this, that he falsely forged, made, and counterfeited the name of Bartholomew Brown, if upon the back of the instrument it appears in point of fact to be understood by those who look at it, to be the name of Bartholomew Brown, that it is sufficient to support this indictment. And I am very sure of this, that your Lordship would not be anxious to find out a case to pass judgement on the Prisoner; nor, on the other hand would your Lordship be anxious to find out a case to defeat a conviction. I do not profess to have that case I mentioned to have occurred before Mr. Justice Buller, but it is strong enough on my mind to make me most firmly believe, that that which he stated procured this species of alteration. And if your Lordship feels any doubt on the subject, I trust your Lordship will reserve the point. But I apprehend it is sufficient on the face of the indictment to state, that he falsely forged, made, and counterfeited, in the name of such a person, and, not professing to state the tenor, I apprehend the variance does not affect.

Mr. Gurney, as *Amicus Curiae*, stated, that the case alluded to by the learned Serjeant was a case of his, *the King, v. Gilchrist*, tried at the Old Bailey session, February, 1795. The indictment charged, that he forged and uttered a note, purporting to be drawn upon Ransom and Morland; they afterwards set out the bill upon the tenor, and then were obliged to state it different, that it purported to be drawn upon Ransom, Morland, and Co. The objection taken was, the purport being one way, and the tenor another. The objection was for the opinion of the twelve Judges, and Mr. Justice Buller delivered their opinion, and he stated, that it was not necessary to state both the purport and the tenor; but if they were both stated, they must both agree. Mr. Gurney concluded by saying the application was not for him to make.

Mr. Garrow.—My Lord, in criminal cases it has never occurred to me, that the finding of the Jury helps the prosecutor's case. The case stated by my friend Mr. Gurney, *Amicus Curiae*, decides my objection. And really to say the truth, before Mr. Gurney mentioned it, I was putting down on my brief, a catch word, that I recollected something on the bank at Charing-Cross. We know that in the old firm, among the mercantile people of that house, Lord Kinnaird was a member. The old firm was Ransom and Co. They had stated, that the bill of exchange purported to be drawn

on Ransom, Morland and ———; but they go on to state, that the verification of their purport after the tenor. That cuts the throat of the tenor; for it turns out that the firm is Ransom and Co. in the tenor and of the firm, and in the firm was Lord Kinnaid. It was found judgement must be arrested, and it was arrested accordingly.

But, my Lord, *that case being strongly for me, or out of the case altogether*, let us see whether they have stated enough for the judgement of the court.—How stands it then; they state that the Prisoner forged an instrument in the name of Bartholomew Brown. I will suppose, that instead of being in the name of Bartholomew Brown, they had said William Garrow. That the man writes W. Garrow, or Will. Garrow, but they have stated upon the indictment, that the man has indorsed the name of William Garrow, and the paper produced turns out to be W. Garrow. I say 'tis impossible the finding of the case can help. It is not Bartholomew Brown, but it is *Bartw.* Brown. Why, in the other case it may as well be *Willhelmina*, being compounded of the words *Will.* as *William*. But say my friends, no; they *must* mean William, though there are other names it may mean, it cannot mean any thing else, there is such a certainty in the three first letters. But I must confess it is new to me to be told, a good indictment may be without the tenor of it. The finding has not helped it. I ask, does my learned friend find on the back of the instrument the words Bartholomew Brown? Does he find that which satisfies the allegation of the indictment? I say no. I can tell him how he might have made this a good count. He might have stated, he did forge, make, and counterfeit an indorsement of Bartholomew Brown, purporting to be the signature of Mr. Bartholomew Brown, of the Lower Mill, or the customer of Mr. Crickitt and Co. and that would have been good. But I do most positively assert, (and my attention has been called to the settling of such indictments as these for the Bank of England, for these ten years past, and previous to that period for others,) I will venture to say, I never saw an indictment in this form before. But I assert, it is totally inconsistent with that strict description, *tenor and import*, that is to be found in all the precedent books from Coke's Book of Entries, down to the present time. There never has been one in the present form.

My Lord, I will not take up more of your time, for the more I consider of it, the more certain I am, and the more I find this objection unanswerable.

Mr. *Baron Hotham*. I am perfectly satisfied in this case, and therefore I do not feel myself bound to leave it for the opinion of the Judges. I am satisfied that in all indictments of this sort, there must be that certainty stated on the face of the indictment that makes it impossible to entertain a doubt, that the name forged is the name on the back of the bill. Now here is such a difference between the two, that *Barthw.* may mean twenty names for what I know, and not Bartholomew, and nothing else. It cannot

not satisfy the indictment. They, therefore, not having put it in, it does not appear satisfactory to me on the face of this indictment, that Bartholomew, and Bartholomew only, is the name. I am thoroughly satisfied.

The Prisoner was thereupon immediately DISCHARGED.

Mr. *Powell*, the Foreman of the Jury, expressed a wish that Mr. Garrow had let them into that secret before the verdict. Mr. Garrow replied, " It will answer the same thing, thank God."



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